

STATE OF MAINE
PUBLIC UTILITIES COMMISSION

Docket No. 98-708

February 29, 2000

PUBLIC UTILITIES COMMISSION
Uniform Information
Disclosure and Informational
Filing Requirements (Chapter 306)

ORDER ON WAIVERS
AND INFORMATION
REQUIREMENTS
REGARDING
CHAPTER 306

WELCH, Chairman; NUGENT and DIAMOND, Commissioners

I. INTRODUCTION

By Orders issued February 23, 1999 and June 29, 1999, the Commission adopted Chapter 306 of its rules. Chapter 306 governs uniform information disclosure for competitive electricity providers (CEPs). As discussed below, the Rule contemplated further Commission action on the determination of average price information. Additionally, several provisions of the Rule were premised on the availability of specific types of information. It now appears that the necessary information will not be readily available, at least in the near future.

As a result of the lack of information and the need to take further action regarding the provisions of Chapter 306, on January 6, 2000, we issued a request for comments on the various issues. Upon review of the comments and consideration of the primary purposes of the Rule, we have decided on our own motion to waive certain provisions of Chapter 306¹ and to provide resource and emission information that CEPs may use to comply with the Rule. The purpose of these waivers and the provision of resource and emission information is to facilitate CEPs' compliance with the Rule. The waivers and resource and emission information are discussed in detail below.

II. AVERAGE PRICE INFORMATION

Section 2(B)(2) of the Rule requires the disclosure label to contain the average unit price of generation service (in cents per kWh). The Rule specifies that the average prices for time-of-use and seasonal prices will be based on a single, generic New England load profile for residential customers and a separate New England profile for commercial customers. Ch. 306 § 2(B)(2)(a). In our Order Provisionally Adopting Rule, we stated that we would work with other New England commissions to develop and publish these load profiles. Order, Docket No. 98-708 at 7 (Feb. 23, 1999).

¹ Section 4 of Chapter 306 authorizes the Commission, on its own motion, to waive any requirements of the Rule not required by statute.

Our disclosure rule is based on a NECPUC model rule developed during 1997 and 1998. Accordingly, our effort to develop policies on uniform disclosure was premised on the adoption of similar rules in other New England states. At this point, only Massachusetts has adopted a disclosure rule based on the NECPUC model rule. The Massachusetts Department of Telecommunications and Energy (DTE) has not published generic load profiles for disclosure purposes.

For these reasons, we sought comment on whether the Commission should waive the requirement for a New England load profile and instead state that Maine load profiles should be used. We indicated that one approach would be to use the profiles required pursuant to Chapter 321 for retail settlements purposes. To produce a single Maine load profile (one for residential customers and one for commercial customers), we suggested that the load profiles of each of the Maine utilities could be sales-weighted.

Bangor-Hydro Electric Company (BHE) commented that it is acceptable to produce statewide profiles for Maine, but further guidance would be needed on how to combine the load data. Central Maine Power Company (CMP) commented informally that creating composite state profiles might be complicated because utilities have different break points between classes and suggested instead that CEPs use utility-specific load profiles. Energy Atlantic (EA) stated that the New England load profile requirement should be waived in favor of Maine load profiles.

We, hereby, waive the requirement that CEPs use New England profiles, and conclude that all CEPs in Maine should use the same statewide profiles. The statewide profiles will be based on CMP's load profiles for the purposes of the disclosure label (regardless of the utility service territory in which the customer is located). One benefit of using New England profiles, or our alternative suggestion to use statewide profiles, is that it allows CEPs to market across regions without having to produce and distribute different labels. For example, if utility-specific profiles were used, a CEP that charged the same rates throughout the State might have to produce labels with one set of average prices for CMP customers and another set of prices for BHE customers. Such a result would likely be confusing to customers and burdensome to CEPs. For this reason, we prefer to establish single statewide profiles.

At this point, we do not believe it is necessary to address the methodological issues involved in developing single sales-weighted Maine profiles. It is sufficient to simply use CMP's load profiles. This is because sales-weighted load profiles would be very similar CMP's profiles due to CMP's size relative to the other Maine utilities. We will revisit this matter when we have more experience with the use of the disclosure labels.

III. REGIONAL AVERAGE FUEL MIX

Section 2(B)(4)(a) of the Rule states that all kWhs that are not associated with “Known Resources” shall be deemed to derive from “System Power.” System Power is ascribed the characteristics of the residual system mix which is the mix of generating resources within the control area net of “Known Resources.”

At the time the NECPUC model rule and the Massachusetts and Maine rules were being developed, it was believed that the residual system mix would be readily available from the ISO-NE. Due to various factors, this is not the case.

In August 1998, the Massachusetts DTE issued a letter containing the ISO-NE control area’s regional average fuel mix for 1997. Because this was the best data available, the DTE indicated that this regional average fuel mix should be assigned to system resources. In November 1999, the DTE issued a letter, updating the regional fuel mix to reflect 1998 data.

We sought comment on whether CEPs in Maine should use the 1998 ISO-NE average fuel mix as the residual system mix for purposes of the disclosure label until improved data is readily available. We also sought comments on how the residual fuel mix should be determined for CEPs serving customers in northern Maine.

EA agreed that the 1998 ISO-NE average fuel mix should be used until improved data are available. Regarding northern Maine, EA commented that, because a bilateral market system is being developed for northern Maine, the quantity of “system power” will be limited to energy imbalances and thus represents an insignificant portion of the total supply.

We, hereby, waive the requirement that the fuel mix associated with the system power be the residual fuel mix as defined in the rule. Instead, CEPs may use the ISO-NE control area’s regional system mix for 1998. This system mix is contained in Attachment 1 to this Order.² We agree with EA that in northern Maine system power will be relatively insignificant. However, for the reasons discussed in section V, below, Attachment 3 to this Order contains the New Brunswick system mix. This mix may be used for disclosure label purposes to the extent necessary.

² The system mix contained in the Massachusetts DTE’s letter divided the mix into categories consistent with its rule. We have adapted the categories to be consistent with those in our own Rule. This involved combining small and large hydro into a single hydro categories, and netting out “imported power” from the mix because the Maine Rule, unlike the Massachusetts rule, does not contain an imported power category.

IV. REFERENCE EMISSION RATES

Section 2(B)(4)(c)(iii) of Chapter 306 requires the emissions associated with the CEP's resource portfolio to be compared to New England regional average emission rates (reference emission rates). In its August 1998 letter, the Massachusetts DTE issued New England average emission rates for CO₂, NO_x and SO₂ to be used as the emission reference rates for the disclosure label.

We sought comment on whether these same reference emissions rates should be used in Maine until updated information is available. We also sought comment on how the reference emissions rates should be determined for CEPs providing service in northern Maine.

EA commented that reference rates contained in the DTE's August 1998 letter should be used until updated information is available. EA also commented that these same rates should be used for service in northern Maine until an equivalent average is developed for the Maritimes control area.

At this point, the average emission rates contained in the DTE's letter appears to be the best available information for use as the reference rates. Thus, CEPs should use these rates for their labels until updated information is available. The reference rates are contained in Attachment 2 to this Order.

Northern Maine is within the Maritimes control area. To obtain more accurate reference rates than that applicable to ISO-NE control area, we asked the New Brunswick Power Corporation (NBP) to provide average emissions rates for its system. NBP provided the requested information for calendar year 1999. This information is also included on Attachment 2. We conclude that CEPs providing service in northern Maine should use these emissions rates as the reference rates for purposes of the disclosure label.

V. IMPORTS

Maine's Rule specifies that a CEP's imports into the region be ascribed the fuel mix and emissions characteristics of the exporting system mix. Ch. 306 § 2(B)(4)(a)(v). This is in contrast to the Massachusetts rule which requires the fuel mix portion of the label to designate power from outside the region as "imports." The Massachusetts rule does require emissions from the exporting system to be incorporated in the air emissions section of the label.

In its August 1998 letter, the Massachusetts DTE provided emissions rates to be used for power imported over the New York/New England transmission lines. The Department stated that the New England average should be used for all other imports.

We sought comment on how to best determine the system mix and emissions rates for imported power from New Brunswick, Hydro-Quebec and New York. EA

commented that it assumes that, to the extent a CEP contract specifies resources from its mix, then the specified resource would be disclosed. Contrary to EA's assumption, section 2(B)(4)(a)(v) of the Rule requires use of the exporting system's characteristics, not individual resources, for purposes of the disclosure label. This provision is intended to avoid the "washing" of undesirable resources through "trades" of what might be considered less desirable resources for more desirable resources from regions without comparable disclosure requirements. See Order, Docket No. 98-708 at 11 (Feb. 23, 1999).

In an effort to simplify compliance with our disclosure rule, we contacted NBP and asked that it provide us with NBP's average system mix and average emission rates. NBP provided this information for calendar year 1999. The information is contained on Attachment 3.³ We also obtained an audited statement of Hydro-Quebec's system mix and emissions rates.⁴ This information is contained in Attachment 4. As mentioned above, Massachusetts's August 1998 letter contained emissions rates for imports over the New York/New England transmission ties. We have obtained New York's regional system mix from its independent system operator's webpage.⁵ The New York information is contained in Attachment 5. CEPs may use the information contained in Attachments 3, 4 and 5 for imports from New Brunswick, Hydro Quebec and New York.

VI. CONCLUSION

In conclusion, we emphasize that the use of disclosure labels to provide customers with comparative information is a relatively new concept with regards to the deregulated sale of electricity. As such, the appropriate information to be included on the label and the sources of that information are evolving. We will continue to work with others in the region to define reasonably accurate information that should be included on the label and identify ways to make such information readily accessible to competitive providers.

³ We have modified the information to be consistent with the categories required for our label, including netting out "purchases." See n. 2, above.

⁴ The audit was conducted by Deloitte and Touche, L.L.P. and constitutes Hydro-Quebec's total electricity production and purchases from October 1998 to September 1999. Consistent with the resource mix for other regions, we have netted out purchases from Hydro-Quebec's resource mix.

⁵ As with the other regions discussed above, we have netted out purchases from New York's system mix.

Dated at Augusta, Maine, this 29th day of February, 2000.

BY ORDER OF THE COMMISSION

Dennis L. Keschl
Administrative Director

COMMISSIONERS VOTING FOR: Welch
 Nugent
 Diamond

NOTICE OF RIGHTS TO REVIEW OR APPEAL

5 M.R.S.A. § 9061 requires the Public Utilities Commission to give each party to an adjudicatory proceeding written notice of the party's rights to review or appeal of its decision made at the conclusion of the adjudicatory proceeding. The methods of review or appeal of PUC decisions at the conclusion of an adjudicatory proceeding are as follows:

1. Reconsideration of the Commission's Order may be requested under Section 1004 of the Commission's Rules of Practice and Procedure (65-407 C.M.R.110) within 20 days of the date of the Order by filing a petition with the Commission stating the grounds upon which reconsideration is sought.
2. Appeal of a final decision of the Commission may be taken to the Law Court by filing, within 30 days of the date of the Order, a Notice of Appeal with the Administrative Director of the Commission, pursuant to 35-A M.R.S.A. § 1320(1)-(4) and the Maine Rules of Civil Procedure, Rule 73, et seq.
3. Additional court review of constitutional issues or issues involving the justness or reasonableness of rates may be had by the filing of an appeal with the Law Court, pursuant to 35-A M.R.S.A. § 1320(5).

Note: The attachment of this Notice to a document does not indicate the Commission's view that the particular document may be subject to review or appeal. Similarly, the failure of the Commission to attach a copy of this Notice to a document does not indicate the Commission's view that the document is not subject to review or appeal.

Attachment 1

**ESTIMATED AVERAGE NEPOOL GENERATION
For Period 1/1/98 through 12/31/98**

<u>Power Sources</u>	<u>%</u>
Biomass	2
Coal	18
Hydro	7
Nuclear	21
Natural Gas	18
Solar	0
Oil	29
Other Renewables	0
Wind	0
Municipal Solid Waste	<u>4</u>
Total	99*

*Does not equal 100% due to rounding

Attachment 2

Reference Emission Rates

ISO-NE Control Area
Lbs/MWhCO₂NO_xSO₂

780

1.5

3.9

Maritimes Control Area
Lbs/MWhCO₂NO_xSO₂

1088

2.8

10.5

Attachment 3

New Brunswick Power

System Mix

<u>Power Sources</u>	<u>%</u>
Biomass	1.6
Coal	22.8
Hydro	17.8
Nuclear	23.2
Natural Gas	0.0
Solar	0.0
Oil	34.7
Other Renewables	0.0
Wind	0.0
Municipal Solid Waste	<u>0.0</u>
Total	100.1*

*Does not equal 100% due to rounding

System Emissions
Lbs/MWh

<u>CO₂</u>	<u>NO_x</u>	<u>SO₂</u>
1088	2.8	10.5

Attachment 4

Hydro-Quebec

System Mix

<u>Power Sources</u>	<u>%</u>
Biomass	0.6
Coal	0.0
Hydro	96.0
Nuclear	2.2
Natural Gas	0.1
Solar	0.0
Oil	1.1
Other Renewables	0.0
Wind	0.0
Municipal Solid Waste	<u>0.0</u>
Total	100

\

System Emissions
Lbs/MWh

<u>CO₂</u>	<u>NO_x</u>	<u>SO₂</u>
46.8	0.1	0.3

Attachment 5

New York

System Mix

<u>Power Sources</u>	<u>%</u>
Biomass	0.1
Coal	19.6
Hydro	21.0
Nuclear	19.5
Natural Gas	32.2
Solar	0.0
Oil	6.2
Other Renewables	0.0
Wind	0.0
Municipal Solid Waste	<u>1.5</u>
Total	100.1*

*Does not equal 100% due to rounding

System Emissions
Lbs/MWh

<u>CO₂</u>	<u>NO_x</u>	<u>SO₂</u>
1300	4.1	9.8